

MARY ELLEN ALLEN,)
)
)
 Plaintiff,)
)
)
 vs.) **Case No. 1:08CV00044 LMB**
)
)
 MICHAEL J. ASTRUE,)
 Commissioner of Social Security,)
)
)
 Defendant.)

This is an action under 42 U.S.C. § 405(g) for judicial review of defendant's final decision denying plaintiff's application for Disability Insurance Benefits under Title II of the Social Security Act and Supplemental Security Income benefits under Title XVI of the Act. Currently pending is Defendant's Motion to Reverse and Remand with Suggestions in Support. (Document Number 35). Plaintiff has not filed a response to defendant's motion.

-1-

her pain; precipitating factors; and dosages and side effects of medication and other treatment. If necessary, supplemental vocational evidence should be obtained. Defendant requests that the court enter a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure reversing the decision of the ALJ and remanding this case to the Commissioner.

Sentence four of 42 U.S.C. § 405(g) provides that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for rehearing.” However, in order for the court to properly remand a case to the Commissioner pursuant to sentence four, the court must enter an order either affirming, modifying or reversing the Commissioner’s decision. See Brown v. Barnhart, 282 F.3d 580, 581 (8th Cir. 2002).

The undersigned believes that it is appropriate to reverse and remand this case in order to permit the Commissioner to take further action as requested in his motion.

Accordingly,

IT IS HEREBY ORDERED that Defendant’s Motion to Reverse and Remand with Suggestions in Support (Document Number 35) be and it is **granted**.

IT IS FURTHER ORDERED that the decision of the Commissioner be **reversed** and this cause be **remanded** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g) for those reasons set forth in this Memorandum and Order. A separate written judgment will be entered in favor of the plaintiff and against the defendant.

Dated this 21st day of May, 2009.

A handwritten signature in black ink, reading "Lewis M. Blanton". The signature is written in a cursive style with a prominent "L" and "B".

LEWIS M. BLANTON
UNITED STATES MAGISTRATE JUDGE